IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPEAL NO.1297 OF 2003

The State of Maharashtra.
....Appellant.

Vs.

Sou. Rukmini Vitthal Patil and ors.

....Respondents.

Mr. B.R. Patil. P.P. for the Appellant.

CORAM: S.S.PARKAR &
R.S.MOHITE, JJ.
DATED: 9TH AUGUST, 2004

P.C.

1. Heard.

2. This is an appeal preferred by the State of Maharashtra against the order of acquittal by which four respondents who are husband, parents-in-law and sister-in-law have been acquitted of offences under Sections-498A, 304(B), 306 and 504 read with Section-34 of the Indian Penal Code.

3. The Trial Court has acquitted all the accused on the ground that the dying declaration itself mentions that it was an accidental burning of the deceased. According to dying declaration (Exh.17) there was no light in the house and the burning lamp was kept in wooden box. There was dark. She wanted to search another lamp and light the same. When she was taking

burning lamp, the lamp slipped from her hands and fell down and due to the blaze, her saree suddenly caught fire and she received burn injuries. The learned Public Prosecutor fairly concedes that the dying declaration does not make mention of any harassment made to the deceased by any of the respondents. The evidence of the relations of the deceased about the alleged ill-treatment to the deceased was not believed by the Trial Court. The Trial Court held that the relations of the deceased have not deposed about the reason for ill-treating the deceased. In view of the aforesaid dying declaration, offence under Sections 304(B) and 306 cannot survive. As far as offence under Sections-498A and 504 are concerned, we do not think that the view taken by the Trial Court is perverse in the facts and circumstances of the case.

4. In the result, we are not inclined to admit the appeal. Hence, rejected.

(S.S. PARKAR, J.)

(R.S. MOHITE, J.)